

### REMARKS

The final Office Action of October 31, 2008, rejected all pending claims. In this Request for Continued Examination, Applicants amend claims 1, 17, 29, 33, 34, 45, 51, 57, 73, 103, 107, 116, 124, 125, 140, 141, 157, 169, and 185. Support for these amendments can be found throughout the specification, for example, at paragraphs [0067-0070], [0079], and [0087-0088]. As such, these amendments add no new matter. Applicants also cancel claims 20, 44, 48, 72, 76, 106, 113, 114, 156, 160, 184, and 188. As such, claims 1, 3-15, 17-19, 21-31, 33-43, 45-47, 49-57, 59-71, 73-75, 77-85, 87-105, 107-112, 115-125, 140-155, 157-159, 161-171, 173-182, 185-187, and 189-196 remain pending. Applicant respectfully requests the Examiner's reconsideration of pending claims in view of the amendments above and the arguments set forth in this response.

### **Claim Objections**

The Office Action objected to claims 17-18, 33-34, 43, 51, and 173-174 for depending from canceled claims. These claims have been amended to depend from pending claims, as indicated above. The Office Action also objected to claim 141 because of a typographical error. The typographical error in claim 141 has been corrected by amendment. As such, Applicants request removal of the claim objections.

### **Claim Rejections – 35 U.S.C. § 102**

Claims 29, 31, 33-34, 37-51, 56, 140-141, 143-146, 149-163, 168-169, 171, 173-174, 177-182, 184-191, and 196

The Office Action rejects claims 29, 31, 33-34, 37-51, 56, 140-141, 143-146, 149-163, 168-169, 171, 173-174, 177-182, 184-191, and 196 under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,234,511 to Subbarao ("Subbarao"). Claims 29, 140, 141, and 169 are independent.

Applicants' claims are patentable over Subbarao because Subbarao does not teach or suggest "utilizing the results of the energy analysis to optimize the first representation of the building," as recited in Applicants' independent claims 29, 140, 141, and 169.

Contrary to the Office Action's allegation at page 5, Subbarao does not provide such a teaching or suggestion. Instead of "utilizing the results of the energy analysis to optimize the first representation of the building," as recited in Applicants' independent claims (emphasis added), Subbarao discloses "the calibration technique can be used to optimize the results from any building energy simulator to thereby provide more-accurate optimal control." (Subbarao at col. 11, lines 25-27) (emphasis added). As provided in Applicants' independent claims, "the first representation of the building" is distinct from "the results." For instance, Applicants' independent claims recite "performing an energy analysis of the building based on the first representation" and "providing results of the energy analysis."

Furthermore, Subbarao is not directed to the Applicants' claimed subject matter. Subbarao is directed to "a method and apparatus for accurately calibrating building energy simulations with performance data." (*Id.* at col. 3, lines 29-31). Subbarao discloses that "when the simulated energy performance is compared with the measured energy performance, differences frequently exist," (*Id.* at col. 1, lines 51-54), and that "[a]ttempts may be made to reconcile the differences between simulated and measured performances by modifying the simulations in some manner to reduce the disagreement. Such a process is sometimes referred to as calibration or tuning of the simulations." (*Id.* at col. 1, lines 63-67). Instead of "performing an energy analysis of the building," as recited in Applicants' independent claims (emphasis added), Subbarao performs an accuracy analysis of an energy simulation using an actual energy performance measurement.

Thus, Subbarao does not teach or suggest all the elements of Applicants' independent claims 29, 140, 141, and 169.

For at least the foregoing reasons, independent claims 29, 140, 141, and 169, and their dependent claims are in a condition for allowance.

#### Claims 116-120 and 123-125

The Office Action rejects claims 116-120 and 123-125 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Publication No. 2005/0022114 to Shanahan et al. ("Shanahan"). Claim 116 is independent.

Applicants' claims are patentable over Shanahan because Shanahan does not teach or suggest "identifying a result set of the at least one information providers that have criteria at least

partially satisfied by the building representation and an energy analysis of the building representation,” as recited in Applicants’ independent claim 116 (emphasis added).

Instead, Shanahan discloses “identifying services that enrich the identified content relating to the following: . . . (i) costs, suppliers, retailers, delivery rates, technical specifications, tutorials, etc. for materials mentioned in the document content.” (Shanahan at [0272]). Nowhere does Shanahan even mention the term “energy,” let alone an “energy analysis of the building representation.”

Thus, Shanahan does not teach or suggest all the elements of Applicants’ independent claim 116.

For at least the foregoing reasons, independent claim 116 and its dependent claims are in a condition for allowance.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 1, 3-6, 9-15, 17-23, 28, 30, 57, 59-62, 65-79, 84-85, 87-93, 96-102, 142, and 170

The Office Action rejects claims 1, 3-6, 9-15, 17-23, 28, 30, 57, 59-62, 65-79, 84-85, 87-93, 96-102, 142, and 170 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Subbarao in view of “Energy Analysis Module Working Specification,” Version 0.2 (D2.4.1), January 31, 2000, GeoPraxis, Inc. (“EAM”). Claims 1, 57, and 85 are independent.

Applicants’ claims are patentable over the cited references because the cited references, whether taken alone or in combination, do not teach or suggest “utilizing the results of the energy analysis to optimize the first representation of the building,” as recited in Applicants’ independent claims 1, 57, and 85.

For at least the same reasons provided above with regard to independent claim 29, Subbarao does not provide such a teaching or suggestion.

EAM does not cure the deficiencies of Subbarao. Nowhere does EAM even mention the term “optimize,” let alone “utilizing the results of the energy analysis to optimize the first representation of the building.”

Thus, the cited references, whether taken alone or in combination, do not teach or suggest all the elements the Applicants’ independent claims 1, 57, and 85.

For at least the foregoing reasons, independent claims 1, 57, and 85, and their dependent claims are in condition for allowance.

Claims 7-8, 24-27, 63-64, 80-83, and 94-95

The Office Action rejects claims 7-8, 24-27, 63-64, 80-83, and 94-95 under 35 U.S.C. § 103(a) as being unpatentable over Subbarao in view of EAM and in view of U.S. Patent No. 6,922,701 to Ananian et al. ("Ananian"). These rejected claims depend from either independent claim 1, 57, or 85.

Applicants' claims are patentable over the cited references because the cited references, whether taken alone or in combination, do not teach or suggest "utilizing the results of the energy analysis to optimize the first representation of the building," as recited in Applicants' independent claims 1, 57, and 85.

For at least the same reasons provided above with regard to independent claim 1, Subbarao and EAM, whether taken alone or in combination, do not provide such a teaching or suggestion.

Ananian does not cure the deficiencies of Subbarao and EAM. Nowhere does Ananian even mention the term "optimize," let alone "utilizing the results of the energy analysis to optimize the first representation of the building."

Thus, the cited references, whether taken alone or in combination, do not teach or suggest all the elements the Applicants' independent claims 1, 57, and 85.

For at least the foregoing reasons, dependent claims 7-8, 24-27, 63-64, 80-83, and 94-95, which each depend from independent claim 1, 57, or 85, are in condition for allowance.

Claims 35-36, 52-55, 103-115, 147-148, 164-167, 175-176, and 192-195

The Office Action rejects claims 35-36, 52-55, 103-115, 147-148, 164-167, 175-176, and 192-195 under 35 U.S.C. § 103(a) as being unpatentable over Subbarao in view of Ananian. Claim 103 is independent. These claims are patentable over Subbarao and Ananian, whether taken alone or in combination, for at least the same reasons articulated above with regard to dependent claim 7.

Claims 121-122

The Office Action rejects claims 121-122 under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Subbarao. These rejected claims depend from independent claim 116.

Applicants' claims are patentable over the cited references because the cited references do not teach or suggest "identifying a result set of the at least one information providers that have criteria at least partially satisfied by the building representation and an energy analysis of the building representation," as recited in Applicants' independent claim 116.

For at least the same reasons provided above with regard to independent claim 116, Shanahan does not provide such a teaching or suggestion.

Subbarao does not cure the deficiencies of Shanahan. Nowhere does Subbarao does not teach or suggest "identifying a result set of the at least one information providers," let alone "information providers that have criteria at least partially satisfied by the building representation and an energy analysis of the building representation."

Furthermore, Applicants disagree with the Office Action's allegation that "it would have been obvious to a person of ordinary skill in the art to modify the above teachings disclosed by Shanahan and combining it with the teachings disclosed by Subbarao." (Office Action at p. 26). Shanahan is directed to "the management and use of documents," (Shanahan at [0003]) and Subbarao is directed to "calibrating building energy simulations with performance data." (Subbarao at col. 1, lines 7-8). Shanahan only regards buildings in detail in an example at paragraph [0272]. Although the Office Action alleges that "[o]ne of ordinary skill in the art would have been motivated to [combine Shanahan with Subbarao] in order to provide more accurate optimal control as suggested by Subbarao," (Office Action at p. 27), it is not evident how this combination would provide "more accurate optimal control." Furthermore, it is not evident that any benefit could even be derived from combining Shanahan with Subbarao.

Thus, the cited references, whether taken alone or in combination, do not teach or suggest all the elements the Applicants' independent claims 116.

For at least the foregoing reasons, dependent claims 121-122, which each depend from independent claim 116, are in condition for allowance.

### **Conclusion**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any \$810 for the Request for Continued Examination Fee and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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